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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/528,693      | 03/20/2000  | James Wright         | 00 P 7518 US        | 5947             |

7590 10/31/2007

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| EXAMINER          |  |
| AUGUSTIN, EVENS J |  |

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 3621     |              |

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| MAIL DATE  | DELIVERY MODE |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/528,693             | WRIGHT ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Evens Augustin         | 3621                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Acknowledgements*

1. Applicants' request for continued examination filed 02 July 2007 is acknowledged.

Accordingly, claims 31-51 remain pending.

### *Claim Interpretation*

2. In determining patentability of an invention over the prior art, the USPTO has considered all claimed limitations, and interpreted as broadly as their terms reasonably allow. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art.
3. It should also be noted that, in the office action that:
  - A. Items in the rejection that are in quotation marks are claimed language/limitations.
  - B. Passages in prior art references may be mere rephrasing/rewording of claimed limitations, but the implicit/explicit meaning of the references vis-à-vis the claimed limitation remains intact.
  - C. Functional recitation(s) using the word "for" or other functional terms have been considered but given less patentable weight<sup>1</sup> because they fail to add any steps and are thereby regarded as intended use language. To be especially clear, the Examiner has considered all claim limitations. However the A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v.*

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<sup>1</sup> See e.g. *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983)(stating that although all limitations must be considered, not all limitations are entitled to patentable weight).

*Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim.).

- D. Limitations that recite the purpose of a process or the intended use of a structure are generally not given any patentable weight. Patentable weight is therefore given to the actual process steps or structural limitations.
- E. Word(s) that are separated by “/” are being examined as being synonymous or equivalent.
- F. The USPTO interprets claim limitations that contain statement(s) such as “*if, may, might, can, could, when, potentially, possibly*”, as optional language (this list of examples is not intended to be exhaustive). As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted (*In re Johnston*, 77 USPQ2d 1788 (Fed. Circ. 2006)). They will be given less patentable weight, because language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.
- G. In light of applicant and consistent board’s decision (page 8)) on 4/27/07, PLC will interpreted as CPU having associated memory
- H. Independent claims are examined together, since they are not patentable distinct. If applicant expressly states on the record that two or more independent and distinct

inventions are claimed in a single application, the Examiner may require the applicant to elect an invention to which the claims will be restricted.

- I. Any official notices taken by the USPTO that are not adequately traversed by applicant will be taken to be admitted prior art.
- J. The USPTO interprets common computer related words that are not lexicographically defined, in accordance to Computer Dictionary, 3<sup>rd</sup> Edition, Microsoft Press, Redmond, WA, 1997<sup>2</sup>. The USPTO also uses published patent applications and issued patents as well, for meanings of common computer related words that are not lexicographically defined.

### ***Claim Objections***

- 4. Claims 32-50 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 32-50 are dependent of claim 31. Claim is a method, which comprises of the following steps: "automatically providing a help window adapted to, via on-line chat technology," and "automatically providing product information

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<sup>2</sup> Based upon Applicants' disclosure, the art of record, and the knowledge of one of ordinary skill in this art as determined by the factors discussed in MPEP §2141.03 (where practical), the Examiner finds that the *Microsoft Press Computer Dictionary* is an appropriate technical dictionary known to be used by one of ordinary skill in this art. See *e.g. Altiris Inc. v. Symantec Corp.*, 318 F.3d 1363, 1373, 65 USPQ2d 1865, 1872 (Fed. Cir. 2003) where the Federal Circuit used the *Microsoft Press Computer Dictionary* (3d ed.) as "a technical dictionary" to define the term "flag." See also *In re Barr*, 444 F.2d 588, 170 USPQ 330 (CCPA 1971)(noting that its appropriate to use technical dictionaries in order to ascertain the meaning of a term of art) and MPEP §2173.05(a) titled 'New Terminology.'

regarding said predetermined product". The languages of "adapted to" within the limitations are not required for the above steps/process to take place and therefore are not given any patentable weight (See MPEP 2106, Section II-C). Therefore, dependent claims such as 32, which contains the limitation of "automatically updating said log with information obtained from a user notes window", claim 33 with "automatically providing a user notes window adapted to record notes of a user regarding said predetermined product" and claim 34 with the limitation of "affixing a label to said predetermined product with said indicator disposed thereon", do not further the steps or processes described in claim 31.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 31-51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durst, Jr. et al. (U.S 5978773), and Murakami et al. (U.S 6370563), and in further view of. Durst, Jr. et al. (US 6542933)
7. As per claims 31-51, Durst, Jr. et al. discloses an invention that comprises of hardware /software combination (col. 5, ll. 13-30, 4854) to do the following:

- A. The dissemination and entry of network addresses is accomplished by means of existing identification standards (e.g., bar codes) found on ordinary products like soup or soda, in conjunction with a centralized database of network locations (col. 3, ll. 19-23) – A computer database is provided that relates standard UPC codes to Internet URLs or other network addresses. To access a network resource relating to a particular product, the user swipes a bar code reader across the product's UPC symbol. The database then retrieves the URL corresponding to the UPC product data. This location information is then used to access the desired resource on the network. (col. 34, ll.3-37)—Providing users with a desired site by simply using a bar code reader (col. 4, ll. 12-13) -- Aside from barcode, the indicator can be stored in other media such as magnetic stripes (col. 6-62-67) ("**product information apparatus comprising an indicator contained in a memory; and a predetermined product**")
- B. Affixing UPC bar code symbol or indicia to article of commerce (col. 6, ll. 13-16) -- ("**affixing a label to said predetermined product with said indicator disposed thereon**")
- C. An IBM compatible personal computer including a CPU 30, a random access memory 32 and an address/data bus 34 by operatively connecting CPU 30 and memory 32. Unless otherwise specified, the term "memory" herein includes any storage device, including RAM, ROM, tape or disk drives (or collections or networks of tape or disk drives), and any other device for storing information (col. 5, 13-22)
- D. A predetermined product coupleable to a programmable logic controller (see figure s 2 and 8), connected to the internet (col. 10, ll. 55-67) –

- E. Network address may be used as indicator (col. 7, ll. 7-12) -- ("**indicator as a URL**")
  - F. To access a network resource relating to a particular product, the user swipes a bar code reader across the product's UPC symbol. The database then retrieves the URL corresponding to the UPC product data. This location information is then used to access the desired resource on the network. (col. 34, ll.3-37)—Providing users with a desired site by simply using a bar code reader (col. 4, ll. 12-13) -- ("**automatically accessing said web page in accordance with said indicator.** ")
  - G. Providing users with a desired site by simply using a bar code reader (col. 4, ll. 12-13)-- ("**providing product specific information such that said web page relates to said predetermined product associated with a specific product serial number**")
  - H. Indicator can take the form of many formats, including serial number (col. 6, ll. 33-44) -- ("**receiving a serial number of said predetermined product**")
8. Durst, Jr. et al. did not explicitly describe a method/system in which the website that is determined by the product's code is a live or real-time product help page. However, Murakami et al. describes an invention that relates to "a chat system for exchanging information between terminal devices of a computer system a terminal device of the chat system, display method of the chat system, and a recording medium used for execution thereof. According to Murakami et al., a chat window enables the consumer to communicate with a live expert (figures 7 and 12). Conversations are stored in a database (col. 14, ll. 19-21, col. 14, ll. 22-27). The conversation can be via telephone (col. 6, ll.16-23). It would have been obvious to one skilled at the time of applicant's invention, that once the product

code can be connected to/associated with a website, that particular website of association can be up to web developer/business owner. For example the website can one that provides coupon to the customer.

9. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system which uses the product code to enter a website that provides online help to the client. It would have been obvious to do so because it would customer to get instant help/support by interacting with a live actual individual.
10. Durst Jr. et al. and Murakami's inventions, which have been previously disclosed, do not disclose an invention in which the product code is stored on a chip. However, Durst Jr. et al. an invention in which the product is store RFID tag (chip is necessarily present) (col. 5, ll. 15-16). Therefore, it would have been obvious for one skilled in the art at the of applicant's invention to use a system that uses RFID to store product code because it would allow automated reading and decoding of identification indicia using a scanning device such as an optical wand, portable scanner, magnetic stripe reader or wireless transmission system.(col. 1, ll. 29-32).

### ***Conclusion***

11. *Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that if the applicant is preparing to respond, to consider fully the entire references as*

*potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-677979.

/Evens J. Augustin/  
Evens J. Augustin  
October 29, 2007  
Art Unit 3621